

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

KEVIN T. McCARNEY, dba Opposition No. 107,026 POQUITO MAS, Opposition No. 107,048 Opposer, Albert Zervas ν. UNA MAS, INC., Applicant.

**BOX TTAB - NO FEE** Asst. Commissioner of Trademarks 2900 Crystal Drive Arlington, Virginia 22202-3513

## OPPOSER'S REPLY REGARDING THE MOTION FOR A 30-DAY EXTENSION OF TIME OF OPPOSER'S REBUTTAL PERIOD

Opposer moved for an extension of its rebuttal period which is set for September 30 through October 15, 2002. Applicant asserts Opposer has set forth no specific facts supporting why Opposer could not proceed. In addition to the logistic problems mentioned, Applicant took its testimony of three witnesses on August 12, 13 and 14, 2002. Accordingly, Applicant had until September 16, 17 and 18 (or September 30, 30 days after the close of its testimony period) to serve its testimony on opposer according to Rule 37 C.F.R. § 2.125(a). Opposer cannot prepare its rebuttal testimony until served by Applicant with the testimony Applicant intends to rely upon. Opposer has not been served by Applicant. Therefore, Opposer is entitled to a stay of its Rebuttal Testimony Period pending service by Applicant and a 30-day extension from the date of service. See 37 C.F.R. § 2.125 and Section 713.13 TEMP which mandates such action.

Respectfully submitted,

FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP

Date: 10/16/02

ROBERT V. VICKERS

(Reg. No 19,504)

1100 Superior Avenue, Seventh Floor

Cleveland, Ohio 44114

(216) 861-5582

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing OPPOSER'S REPLY REGARDING THE MOTION FOR 30-DAY EXTENSION OF TIME OF OPPOSER'S REBUTTAL PERIOD was served on Applicant's Attorney by facsimile to:

David J. Brezner, Esq. Dorsey & Whitney, LLP Four Embarcadero, Suite 3400 San Francisco, California 94111 at (415) 398-3249

on this 16th day of October, 2002.